

BEFORE THE FEDERAL ELECTION COMMISSION

2005 NOV -8 A 10: 06

In the Matter of

MUR 5618

FRIENDS OF SCOTT McINNIS

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

and are deemed inappropriate for review by the Alternative Dispute Resolution

Office are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated

matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to

dismiss these cases.

The Office of General Counsel scored MUR 5618 as a low-rated matter. In this case,

the allegations concerned the receipt of a salary and the personal use of committee equipment

by the candidate's wife, who was acting as the campaign manager. In light of the de minimis

nature of the allegations and reviewing the merits of MUR 5618 in furtherance of the

Commission's priorities and resources relative to other matters pending on the Enforcement

docket, the Office of General Counsel believes that the Commission should exercise its

prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5618, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

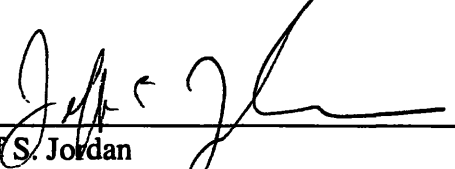
James A. Kahl
Deputy General Counsel

11/3/05
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5618

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5 **MUR 5618**

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7 **Complainant:** Julie DeWoody as
8 Executive Director of the Colorado Democratic Party
9

10 **Respondents:** Friends of Scott McInnis &
11 C. Dennis King, Treasurer
12 Scott McInnis
13

14 **Allegations:** The complainant alleges that Friends of Scott McInnis ("Committee") paid
15 the salary, telephone, utility, and vehicle costs for the candidate's wife, Lori McInnis, in
16 2004 notwithstanding the fact that Congressman McInnis announced in 2003 he was not
17 seeking reelection. Therefore, the complainant asserts that the funds received by Lori
18 McInnis amounted to a personal use of excess campaign funds.
19

20 **Responses:** The Committee and Lori McInnis responded that Mrs. McInnis was
21 employed by the Committee in 2004 in order to assist Congressman McInnis with his
22 representational responsibilities and winding down activities. Additionally, both
23 respondents attested to Mrs. McInnis legitimately benefiting from only a de minimis
24 personal use of certain Committee equipment.
25

26 **General Counsel's Note:** It should be noted that in Mrs. McInnis's affidavit she stated
27 that she tracked her personal use of the Committee vehicle and the mileage she used was
28 converted to a dollar value and assessed as income for federal income tax purposes.
29 Additionally, she claims that Congressman McInnis actually overstated his personal use
30 of the Committee vehicle. The error caused an artificially inflated amount of personal
31 use to be attributed to the vehicle.
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33 **Date complaint filed:** November 22, 2004
34

35 **Responses filed:** January 18, 2005

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